

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>ORGUNA SANDERS,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>C.A. No. 22-355 Erie</b>
<b>v.</b>	)	
	)	<b>District Judge Susan Paradise Baxter</b>
<b>CITY OF ERIE, et al.,</b>	)	<b>Chief Magistrate Judge Richard Lanzillo</b>
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

This is a *pro se* civil rights action filed by Plaintiff Orguna Sanders, an inmate incarcerated at the State Correctional Institution at Pine Grove in Indiana, Pennsylvania (“SCI-Pine Grove”), pursuant to 42 U.S.C. § 1983, against the City of Erie, Erie Police Chief Daniel Spizarny, District Magistrate Judge Suzanne C. Mack, Assistant District Attorneys (“ADA”) Nicholas A. Maskery and Jeremy C. Lightner, Erie Police Officer K.M. Mullaney, and City of Erie Mayor Joseph Schember. Plaintiff’s second amended complaint alleges constitutional claims for false arrest and false imprisonment, malicious prosecution, and cruel and unusual punishment, as well as a civil rights conspiracy claim. This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On May 15, 2024, Plaintiff filed a motion for temporary restraining order [ECF No. 74], alleging, *inter alia*, that the Commonwealth “is using [this civil action] against [him] in his direct appeal” of his criminal charges, in “violation of [his] rights” under “the [Fifth] and [Fourteenth] Amendments;” is subjecting him to “Double Jeopardy” because it “is still saying

[he] had East High Middle School locked down for two hours" even though he "was acquitted of all charges from case 3152-2021;" and has unlawfully consolidated criminal case 3152-2021 with criminal case 3050-2021, and "is not using facts in their brief." (Id. at ¶¶ 1, 3-6, 9). As relief, Plaintiff requests a "[TRO] or an injunction ordering the removal of the fraudulent brief filed by the Commonwealth." (Id. at ¶ 9).


On May 31, 2024, Chief Magistrate Judge Lanzillo issued a Report and Recommendation ("R&R") recommending that Plaintiff's motion for temporary restraining order ("TRO motion") be denied because he has failed to allege facts demonstrating either a likelihood of success on the merits or immediate irreparable harm [ECF No. 81]. In particular, Judge Lanzillo notes that Plaintiff cannot obtain injunctive relief against the Commonwealth because (i) it is not a person subject to suit under 42 U.S.C. § 1983; (ii) the claims set forth in the TRO motion are not connected to the claims raised in the second amended complaint; and (iii) Plaintiff has failed to plead an imminent injury, which is required for this Court to interfere with a state court proceeding. (Id.). Objections to the R&R were due to be filed by June 17, 2024; however, no objections have been received by the Court.

Thus, after *de novo* review of Plaintiff's motion and other documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 24<sup>th</sup> day of June, 2024;

IT IS HEREBY ORDERED that Plaintiff's motion for a temporary restraining order [ECF No. 74] is DENIED. The report and recommendation of Chief Magistrate Judge Lanzillo,

issued May 31, 2024 [ECF No. 81], is adopted as the opinion of the court.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
Chief United States Magistrate Judge